

## MODEL WATER USE RESTRICTION BYLAW/ORDINANCE<sup>1</sup>

*This is a model provided by the Department of Environmental Protection for use by municipalities in developing their own bylaws to regulate the use of water supplied by a municipal water system. It is for communities wishing to establish enforceable limitations on the use of water during temporary periods of high water demand. If properly enacted, the municipal bylaw will enable municipal water systems to control and mitigate periods of high demand - with an associated stressed water supply - typically occurring during the summer months. The restrictions included in the bylaw include odd/even day outdoor watering, limited outdoor watering hours, outdoor watering bans, and prohibitions on filling swimming pools and the use of automatic sprinkler systems. Persons violating the bylaw's restrictions are subject to civil fines.*

*If a municipality is experiencing complex system problems affecting its ability to consistently provide an adequate supply of water, adopting and implementing the model bylaw may not address the problem. In that case a declaration of water supply emergency under M.G.L. c.21G, §15-17 should be requested from the Department. After enactment, the Department would like to be notified of the state of conservation imposed, and is planning to revise its regulations to require such notification.*

*Local requirements for adopting bylaws may vary according to the terms of individual municipal charters. Consultation with town counsel is strongly advised before adopting any bylaw. The Department makes no representation concerning the legal effect or validity of this model.*

**CONSULT WITH YOUR TOWN COUNSEL TO INSURE ADOPTION OF AN APPROPRIATE, ENFORCEABLE AND LEGALLY VALID BYLAW THAT WILL MEET YOUR MUNICIPALITY'S NEEDS.**

### **Section 1**

#### **Authority**

This Bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under M.G.L. c.40, §§21 et seq. and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This bylaw also implements the Town's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

### **Section 2**

#### **Purpose**

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Supply Conservation or State of Water Supply Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

### **Section 3**

#### **Definitions**

Person shall mean any individual, corporation trust, partnership or association, or other entity.

State of Water Supply Emergency shall mean a State of Water Supply Emergency declared by the Department of Environmental Protection under M.G.L. c.21G, §15-17.

State of Water Supply Conservation shall mean a State of Water Supply Conservation declared by the Town pursuant to section 4 of this bylaw.

Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

#### **Section 4**

#### **Declaration of a State of Water Supply Conservation**

The Town, through its Board of Water Commissioners<sup>2</sup>, may declare a State of Water Supply Conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a State of Water Conservation shall be given under section 6 of this bylaw before it may be enforced.

#### **Section 5**

#### **Restricted Water Uses**

A declaration of a State of Water Supply Conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under section 6.

- a) Odd/Even Day Outdoor Watering Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by water users with even numbered addresses is restricted to even numbered days.
- b) Outdoor Watering Ban Outdoor watering is prohibited.
- c) Outdoor Watering Hours Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply Conservation and public notice thereof.
- d) Filling Swimming Pools Filling of swimming pools is prohibited.
- e) Automatic Sprinkler Use The use of automatic sprinkler systems is prohibited.

#### **Section 6**

#### **Public Notification of a State of Water Supply Conservation; Notification of DEP**

Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation. Any restriction imposed under section 5 shall not be effective until such notification is provided. Notification of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

#### **Section 7**

#### **Termination of a State of Water Supply Conservation; Notice**

A State of Water Supply Conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by section 6.

#### **Section 8**

#### **State of Water Supply Emergency; Compliance with DEP Orders**

Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

## **Section 9**

### **Penalties**

Any person violating this bylaw shall be liable to the Town in the amount of \$50.00 for the first violation and \$100 for each subsequent violation which shall inure to the Town for such uses as the Board of Water Commissioners may direct. Fines shall be recovered by indictment, or on complaint before the District Court, or by non-criminal disposition in accordance with section 21D of chapter 40 of the general laws. Each day of violation shall constitute a separate offense.

## **Section 10**

### **Severability**

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

- <sup>1</sup> The terms "town" and "bylaw" used throughout this document are intended to also refer to cities and ordinances, respectively.
- <sup>2</sup> References to Boards of Water Commissioners throughout this bylaw should be edited by particular Cities and Towns to accurately describe the municipal department or board having responsibility for the operation and maintenance of the water supply system.